United Nations E/1999/83

Economic and Social Council

Distr.: General
17 June 1999

Original: English

Substantive session 1999
Geneva, 5–30 July 1999
Item 6 of the provisional agenda*
Integrated and coordinated implementation of and follow-up to major United Nations conferences and summits

Implementation of agreed conclusions 1998/2 of the Economic and Social Council on the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action

Report of the Secretary-General

I. Introduction

1. At its fifty-third session, the General Assembly reviewed the implementation of the recommendations adopted by the 1993 World Conference on Human Rights in Vienna. In its resolution 53/166 of 9 December 1998 the General Assembly welcomed agreed conclusions 1998/2, adopted by the Economic and Social Council on the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action and called for their full implementation. The present report reviews progress in the implementation of action oriented conclusions as contained in document 1998/2.

* E/1999/100 and Add.1.

99-18042 (E) 070799

II. Recommendations and activities

The Council recommended that:	The following activities have been undertaken since the 1998 substantive session of the Economic and Social Council:
A. System-wide coordinated follow-up to and implementation of the Vienna Declaration and Programme of action	
1. Its functional commissions, as well as the regional commissions and other organs and bodies, and the specialized agencies, within their respective mandates, take all human rights fully into account in their activities.	1. The "Vienna+5" report of the Secretary-General to the Economic and Social Council (ECOSOC) (E/1998/60) presented progress made and policy directions being taken to integrate human rights into the activities of the United Nations system. This process is continuing. Human rights are being integrated throughout the system through the adoption of human rights-based methodologies; development of programmes or projects addressing specific human rights issues; integrating human rights components in the programmes and projects of the United Nations system, including operations on the ground; and the presence of the Office of the High Commissioner for Human Rights (OHCHR) in all structural units of the Secretariat responsible for policy development and coordination. The International Labour Organization (ILO), the United Nations Children's Fund (UNICEF), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Fund for Women (UNIFEM), the Joint and Co-sponsored United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Population Fund (UNFPA), the World Food Programme (WFP), the World Health Organization (WHO), the Department of Public Information (DPI) and the Division for the Advancement of Women (DAW), as well as the Commission on the Status of Women and the Commission on Crime Prevention and Criminal Justice provide examples here. Regional economic commissions (the Economic Commission for Latin America and the Caribbean (ECLAC) and the Economic Commission for Europe (ECE)) organized workshops to promote social, economic and cultural rights in 1998. UNDP and OHCHR have developed, in the framework of the 1998 memorandum of understanding between the two institutions and following the UNDP policy paper "Integrating Human Rights and Sustainable Development", a programme entitled "Human Rights Strengthening (HURIST)" consisting of joint activities in five areas crucial for human rights and sustainable human development. In 1998 the World Bank published "Development and human rights: the role of the World Bank", a document which reflects the Bank's human rights policy orientation.

2. All the components of the United Nations system increase system-wide coordination to promote all human rights, including inter-agency consultations convened by OHCHR at the working level to be continued as a forum for cooperation in the field of human rights.	2. Human rights activities are subject to system-wide coordination within the overall management system of the Organization. OHCHR's presence in all Executive Committee's, the Administrative Committee on Coordination (ACC) system and in the frameworks of the humanitarian sector (in particular the Inter-Agency Standing Committee (IASC)) allow for greater coordination of human rights relevant activities. In addition to the overall coordination framework, progress has also been made at the working level in specific areas referred to in this report. Examples include monthly consultations between UNDP and OHCHR and regular consultations between OHCHR and UNESCO, UNCTAD, UNFPA, UNAIDS, WHO and ILO. Special attention has been placed on integrating human rights components in the coordinated activities of the United Nations at the country level as the most effective way to promote human rights and to coordinate efforts of the Organization. Human rights have been included into the United Nations Development Assistance Framework (UNDAF), which is designed to serve as a process of ongoing United Nations teamwork to respond to the development priorities of specific countries. OHCHR has taken the responsibility for the human rights component of UNDAF.
3. The Secretary-General continue efforts to recruit staff for OHCHR with a view to securing the highest standards of efficiency, competence and integrity, on as wide a geographical basis as possible and with consideration of gender balance.	3. The report of the High Commissioner for Human Rights on "Composition of the staff of the Office of the United Nations High Commissioner for Human Rights" (E/CN.4/1999/97) stresses that the principles governing the recruitment and employment of staff are derived from Article 101, paragraph 3, of the Charter of the United Nations. The report contains tables providing comprehensive updated data concerning the staff of OHCHR. The report of the Secretary-General on the composition of the Secretariat, A/53/375, also contains relevant information concerning this issue. Following the resolution of the Commission on Human Rights on "Composition of the staff of the Office of the United Nations High Commissioner for Human Rights" (resolution 1999/70), the High Commissioner will submit a report on its implementation to the next session of the Commission on Human Rights.

4. The system-wide human rights training of United Nations staff be provided.	4. Human rights training is being provided for an increasing number of United Nations staff members. In cooperation with the Department of Peacekeeping Operations and the Office of the United Nations High Commissioner for Refugees (UNHCR), OHCHR organizes two training programmes per year on peacekeeping, humanitarian assistance and human rights for military and civilian police trainers at the United Nations Staff College in Turin, Italy. The programmes address national trainers of military and police contingents to be deployed to United Nations peacekeeping operations. In addition, OHCHR continues to implement training programmes on human rights for peacekeeping personnel already deployed, as relevant to their mandate and specific functions. A six month training programme for the international police task force of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) was completed in December 1998. Training materials for both military and police peacekeeping personnel have been developed by OHCHR. In cooperation with UNDP, OHCHR has also started organizing training and briefings for UNDP staff and resident coordinators. Briefings on the various aspects of the United Nations human rights programme have been organized in Geneva for representatives of UNDP offices in 1998 and 1999. A joint UNDP-OHCHR Workshop on Integrating Human Rights with Sustainable Human Development was held in Abidjan from 10 to 12 May 1999, which provided the opportunity to test training materials jointly developed by the two organizations. Through the OHCHR Regional Office for Southern Africa, workshops for United Nations country teams have also been held.

B. Democracy-development — human rights and the right to development and the role of international cooperation

5. The relevant components of the United Nations take further steps for the realization of the right to development, including enhanced cooperation and coordination. The Bretton Woods institutions have been invited to take part in this process.

5. The increasing emphasis being placed on the social dimension of development by the United Nations system, including the World Bank (see also para. 3 above), has resulted in important progress towards an integrated approach to democracy, development, and human rights. Particular attention has been focused on the right to development. The Commission on Human Rights, in its resolution 1998/72, has established a mechanism to monitor the implementation of this right composed of an open-ended working group (to hold its first meeting in the second half of 1999) and an Independent Expert who has already assumed his responsibilities (see E/CN.4/1999/118 which contains the Independent Expert's provisional work plan). In 1998, ILO adopted the Declaration on Fundamental Principles and Rights at Work, based on the concept that "economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for ILO to promote strong social policies, justice and democratic institutions". The United Nations Development Group (UNDG) Working Group on the right to development, chaired by OHCHR, is elaborating a common UNDG approach for enhancing the human rights dimension of development activities, including determination of goals, benchmarks and terms of accountability. It is also preparing the training module on the right to development for UNDG staff. Several seminars and workshops have been organized in inter-agency and expert frameworks to analyse specific aspects of the implementation of the right to development. Most recently, OHCHR, UNDP and the Government of Norway organized a symposium on human rights and human development (October 1998, Oslo). OHCHR organized a workshop on the implementation of the right to development with the participation of high-level experts from relevant disciplines (May 1999). OHCHR also facilitates cooperation between special procedures established by the Commission on Human Rights in the area of economic, social and cultural rights (meetings in October 1998 in Oslo and in December 1998 in Geneva). OHCHR next plans to organize regional seminars on the right to development in Latin America, Africa and Asia. See also the reports on the right to development of the High Commissioner for Human Rights (E/CN.4/1999/19) and of the Secretary-General (E/CN.4/1999/20); the report of the High Commissioner for Human Rights on "Vienna+5" (A/53/372); the resolutions on the right to development adopted by the General Assembly (resolution 53/155) and the Commission on Human Rights (resolution 1999/79) and the Commission resolution on the right to democracy (resolution 1999/57).

6. The United Nations system increase its efforts to eradicate poverty.	6. Extreme poverty has been recognized as a serious violation of human rights. Its eradication is a cross-cutting objective within the United Nations. The statement of commitment for action to eradicate poverty, adopted by ACC in May 1998, reaffirmed that poverty eradication is a key international commitment and a central objective of the United Nations system. ACC emphasized that poverty is a denial of choice and opportunities, as well as a violation of human dignity. Programmes specifically oriented for its elimination as well as relevant components of others are being developed by UNDP, the World Bank, UNCTAD and other agencies and programmes. UNICEF has taken specific action to mitigate the effects of extreme poverty on children. The Secretary-General has repeatedly addressed the international community, including the business leaders at the World Economic Forum in Davos, Switzerland, to develop coordinated action against poverty. To make meaningful progress in this regard, comprehensive measures are necessary to move large parts of the world from a state of chronic poverty to sustainable development. Simultaneously, measures must be taken at the national level to improve the situation of the poor parts of the population through equitable use of available budgetary means. The report of the independent expert of the Commission on Human Rights on extreme poverty provides a survey of action taken at the national and international level to eradicate extreme poverty (E/CN.4/1999/48). See also General Assembly resolution 53/146 and Commission on Human Rights resolution 1999/26.

7. The United Nations system increase coordination and cooperation to promote and protect economic, social and cultural rights.	7. Agencies and programmes acting in the areas of food, housing, education, health and labour, increasingly base their activities on the relevant human rights standards established by the international community. The integrated approach to social development and human rights adopted by the world conferences and summits provides guidance in this process. Increasing cooperation in this regard can be seen, for instance, in the expert consultation organized by OHCHR and FAO to discuss the core content of the right to food and its implementation (November 1998, Rome). OHCHR also hosted a meeting of the ACC Subcommittee on Nutrition (April 1999, Geneva) and jointly organized a symposium on a human rights approach to food and nutrition policies and programmes. The World Intellectual Property Organization (WIPO) organized a round table on intellectual property and indigenous peoples (July 1998, Geneva). UNFPA organized a round table on adolescent sexual and reproductive health (April 1998, New York). OHCHR is carrying out a global technical cooperation programme for the implementation of economic, social and cultural rights, which includes the development of a practitioner's manual on integrating economic, social and cultural rights into the work of national human rights institutions; a pilot training session on human rights for staff of United Nations development agencies; and a workshop on human rights in development policies with the participation of Government officials, United Nations agency staff and civil society representatives. The agenda of the Commission on Human Rights includes several items which are of direct relevance to these rights (see in particular Commission resolutions 1999/25, 1999/22, 1999/24, 1999/26). At its last session, the Commission decided that the Subcommission on Prevention of Discrimination and Protection of Minorities should continue to review the establishment of a forum on economic, social and cultural rights (Social Forum) to meet during its annual session (resolution 1999/53). The Commission also decided to continue consideration of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights and the question of impunity of perpetrators of violations of economic, social and cultural rights (resolution 1999/58), as well as supported measures to enhance the ability of the Committee on Economic, Social and Cultural Rights to fulfil its mandate. The Commission considered the preliminary report of the Special Rapporteur on the right to education (E/CN.4/1999/49).

C. Racism, racial discrimination, xenophobia and related intolerance

8. Components of the United Nations system strengthen their contribution to the efforts to eradicate racism and racial discrimination, and that the General Assembly declares the year 2001 a year of mobilization against racism, racial discrimination, xenophobia and related intolerance.	8. Racism and racial discrimination continue to constitute one of the major obstacles to ensuring universal respect for human rights. Efforts to combat these practices should therefore be intensified. They should include universal and unconditional accession to the International Convention on the Elimination of All Forms of Racial Discrimination, awareness-raising activities, adopting laws and policies to prevent and eradicate racial discrimination. Preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in 2001, have been launched. An open-ended Working Group of the Commission on Human Rights met during the Commission's fifty-fifth session in order to review and formulate proposals for consideration by the Commission and for possible forwarding to the Preparatory Committee at its first session. The preparatory process to the World Conference will provide impetus for better coordination of activities within the United Nations system to combat racism and racial discrimination and thus contribute to the implementation of the United Nations Decade against Racism and Intolerance. Updated information on United Nations efforts in this area, including preparations for the World Conference, is contained in the report of the High Commissioner for Human Rights "Racism, racial discrimination, xenophobia and all forms of discrimination" (E/CN.4/1999/12). See also General Assembly resolution 53/133 and Commission on Human Rights resolution 1997/78.

D. Equal status and human rights of women

9. The United Nations system makes special efforts to strengthen expertise concerning the equal status and human rights of women, and that system-wide training in the human rights of women be provided.

9. Mainstreaming the human rights of women throughout the United Nations system has led to enhanced capacity to deal with related problems and offer relevant assistance to Governments and civil society. In 1997, OHCHR commenced a joint project with the Division for the Advancement of Women to integrate gender into its technical cooperation programme. With the participation of UNIFEM, UNFPA and ILO, guidelines on gender and the human rights of women for use by United Nations staff and consultants have been elaborated. Similar guidelines for evaluating technical cooperation projects are being developed. The rights of women are included by OHCHR as part of training provided in country projects focusing on specific group concerns such as judges, police officers, members of NGOs, Government officials and others. Training courses were also carried out by OHCHR in 1998 in several countries, including Argentina, Bhutan, Cambodia, El Salvador, Namibia, Nepal, Palestine, South Africa and Togo. A workshop on a rights-based approach to women's empowerment and advancement and gender equality was organized by the Division for the Advancement of Women in Rome in October 1998. In addition, the Department of Peacekeeping Operations, OHCHR and the United Nations Staff College project produced a first draft of a training module on gender and peacekeeping. For further details see: the report of the Secretary-General to the Commission on Human Rights at its fifty-fifth session "The question of integrating the human rights of women throughout the United Nations system" (E/CN.4/1999/67); the report of the Secretary-General on the joint work plan prepared by the Division for the Advancement of Women and the OHCHR (E/CN.6/1999/2); and Commission on Human Rights resolution 1999/41.

10. System-wide cooperation to address violations of human rights of women be enhanced.	10. Violence against women is an issue which is addressed by different units within the United Nations. The report submitted to the fifty-fifth session of the Commission on Human Rights by the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1999/68; see also E/CN.4/1998/54) brings a thorough global analysis of violence against women in the family, including an addendum on policies and practices that impact on women's reproductive rights and contribute to, cause or constitute violence against women. It is to be stressed that thematic and country special rapporteurs of the Commission on Human Rights have paid particular attention to violence against women, benefitting from information materials developed by UNIFEM and training provided by UNIFEM to OHCHR staff working with special procedures (see E/CN.4/1999/67). OHCHR has been actively involved in the issue of trafficking in persons with a special focus on trafficking in women and children. The Office is also following recent developments of regional and international legal mechanisms — specifically the draft South Asian Association for Regional Cooperation (SAARC) treaty on trafficking in women and children and its two Protocols (on trafficking and illegal migration, respectively), which are being developed within the framework of the Convention against Transnational Organized Crime. UNFPA has been actively involved in the inter-agency campaigns against violence against women carried out during 1998 in Africa, Latin America and the Caribbean.
11. The General Assembly and the Commission on Human Rights integrate a gender perspective in new or renewing mandates in the field of human rights.	11. The Office of the High Commissioner for Human Rights has jointly organized, with the Division for the Advancement of Women and UNIFEM, a workshop on gender integration into the human rights system for special rapporteurs and chairs of treaty bodies. In almost all the mandates of the special rapporteurs and independent experts, reference has been made to the integration of gender (see Commission on Human Rights resolutions in 1998 and 1999). During the fifty-fifth session of the Commission on Human Rights, OHCHR organized a panel on gender and the human rights of women, which included the participation of the High Commissioner, the chair of the Commission on Human Rights, the chair of the Commission on the Status of Women, the vice-chair of the Committee on the Elimination of Discrimination against Women and the Secretary-General's Special Adviser on Gender Issues and the Advancement of Women. The main focus of the discussion was the strengthening of cooperation between the Commissions, United Nations agencies and programmes, the special mechanisms and treaty bodies to ensure due consideration given to the integration of gender.

12. The human rights treaty bodies further integrate the gender dimension in their activities, as well as strengthen coordination with the Committee on the Elimination of Discrimination against Women.	12. The report of the Secretary-General analysing the measures that have been taken by the treaty bodies in order to integrate a gender perspective in their work (HRI/NC/1998/6) was considered by the chairpersons of treaty bodies at their tenth meeting. The report notes, *inter alia*, that attention to the situation of women in the framework of guarantees of equal enjoyment of rights and of non-discrimination is being broadly achieved, and that there is growing attention to situations that are specific to women. The report also provides detailed information on steps taken by five human rights treaty based bodies to increase attention to the status and the human rights of women. The report also reviews interaction between the treaty bodies and the Committee on the Elimination of Discrimination against Women. A workshop to examine ways to coordinate action to promote the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, as well as consultation on violence in the family was held in October 1998.

E. Those requiring special protection

13. Components of the United Nations system develop greater international cooperation and further coordinated efforts and involvement in the protection of the rights of the child.

13. The implementation of the Convention on the Rights of the Child continues to promote greater cooperation and coordination of efforts as United Nations agencies and bodies increase their involvement in the protection of the rights of the child. It is expected that the 1999 session of the International Labour Conference will adopt a new convention against the worst forms of child labour, supported by the ILO's International Programme for the Elimination of Child Labour. The special dialogue on the rights of the child and the risks of marginalization, held on 14 April 1999 during the fifty-fifth session of the Commission on Human Rights, gathered high-level representatives of ILO, UNICEF, WHO, the Swedish Save the Children Fund, as well as the High Commissioner for Human Rights and the Chairperson of the Commission on Human Rights. UNAIDS worked closely with OHCHR and other agencies to organize the thematic discussion day on child rights and AIDS, held by the Committee on the Rights of the Child during its ninetieth session in October 1998. Heads of key United Nations agencies and bodies will again come together for a special meeting to be organized at the initiative of the High Commissioner for Human Rights in September 1999, during the twenty-second session of the Committee on the Rights of the Child, to celebrate the tenth anniversary of the adoption of the Convention. Many meetings have been organized by agencies and programmes to deal with specific issues concerning the implementation of the Convention, for example child rights and violence against children (UNICEF — October 1998), child protection (WHO — November 1998), pornography on the Internet (UNESCO — January 1999). Cooperation between OHCHR and UNICEF continues to provide a great degree of support to the activities of the Committee on the Rights of the Child. At the national level, increased collaboration in the design and implementation of technical assistance projects is enhancing support to States Parties in the preparation of reports to the Committee and in following up on the recommendations formulated by the Committee. In its resolution 1999/80, the Commission on Human Rights welcomed the positive results of the cooperation between the Committee and UNICEF, as well as other relevant actors, and encouraged UNICEF to develop further the rights-based approach it has adopted. With 191 States Parties, the Convention has achieved almost universal ratification. OHCHR and UNICEF collaborate to promote, as called for by Commission on Human Rights resolution 1998/80, acceptance of the amendment to article 43, paragraph 2, of the Convention adopted by States Parties, which will allow for the necessary expansion of the membership of the Committee on the Rights of the Child.

14. Components of the United Nations system facilitate the negotiating process of the draft United Nations declaration on the rights of indigenous peoples.	14. The adoption of a United Nations declaration on the rights of indigenous peoples is identified as a major objective by the Vienna Declaration and Programme of Action and the International Decade of the World's Indigenous People (1995–2004). Four sessions of the open-ended working group of the Commission on Human Rights to elaborate a draft declaration have now been held and two articles of the draft have been adopted at the first reading (see E/CN.4/1999/82, the report of the most recent session). At its fifty-fifth session, the Commission on Human Rights recommended that the open-ended working group meet for eight days prior to its next session.
15. United Nations agencies, funds and programmes support the activities of the Decade of the World's Indigenous People.	15. The goal of the International Decade of the World's Indigenous People is to strengthen international cooperation for the solution of problems faced by indigenous people in areas such as human rights, the environment, development, education and health under the theme "Indigenous people: partnership in action". As the International Decade (1995–2004) will reach its mid-point at the end of 1999, the Commission on Human Rights, in its resolution 1999/51, requested the High Commissioner for Human Rights, in her capacity as coordinator of the International Decade, to submit a mid-term report reviewing implementation of the programme of activities and recommendations to the General Assembly at its fifty-fourth session as well as a preliminary report to the ECOSOC at its present session (document forthcoming). See also recent reports on the Decade to the General Assembly and the Commission, A/53/310 and E/CN.4/1999/81, respectively. The proposal to consider the establishment of a permanent forum for indigenous people was made in the Vienna Declaration and Programme of Action and by the General Assembly in its resolutions relating to the International Decade of the World's Indigenous People (see, for example, resolution 50/157). Two workshops on the permanent forum have been organized in Copenhagen and Santiago. In February 1999, an open-ended working group of the Commission on Human Rights met to consider the question (see E/CN.4/1999/83). The Commission recommended, at its fifty-fifth session, that the open-ended working group meet for eight working days prior to its fifty-sixth session with a view to completing its task (Commission resolution 1999/52).

16. Rights of persons belonging to national or ethnic, religious and linguistic minorities will be promoted by the international community.	16. Although progress in protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities can be noted, the existing needs in this regard require reinforced action. The human rights treaty-based bodies are increasingly addressing minority issues and requesting disaggregated data on the respect of the rights of persons belonging to minorities. Some special rapporteurs are drawing attention to violations of minority rights in their reports, and the Special Rapporteur on religious intolerance was mandated specifically by the Commission on Human Rights at its fifty-fifth session to address the issue of religious minorities. The Working Group on Minorities of the Subcommission on Prevention of Discrimination and Protection of Minorities, whose mandate has been extended on a perennial basis, is playing an increasingly larger role in this field. This Working Group has become a forum for inter-agency cooperation and for the integration of issues relating to minority protection in the policies and activities of the United Nations system. For further information see the report of the Secretary-General to the Commission on Human Rights (E/CN.4/1999/113) and the report of the Working Group at its fourth session (E/CN.4/Sub.2/1998/18).
17. Technical assistance be provided for the promotion and protection of human rights in the context of HIV/AIDS and inter-agency cooperation and coordination to that end be strengthened.	17. Technical cooperation in the context of HIV/AIDS and human rights has included various activities of UNAIDS, including dissemination of the International Guidelines on HIV/AIDS and Human Rights (together with OHCHR); briefing session for Governments and NGOs during the fifty-fourth session of the Commission on Human Rights (jointly with OHCHR), preparation of the "Handbook for legislators on HIV/AIDS and human rights" and training programmes in several countries. UNDP and the Office for Drug Control and Crime Prevention offer assistance in reform of criminal laws and correctional systems in the context of HIV/AIDS. UNDP also assists in capacity-building with regard to HIV/AIDS and human rights. Inter-agency cooperation and coordination is ongoing under the leadership of UNAIDS. Together with UNFPA and UNIFEM, it is spearheading a regional study on gender and HIV/AIDS. An agreement has been signed between OHCHR and UNAIDS with respect to the establishment of a joint post in order to strengthen the human rights-based response to the HIV/AIDS epidemic and the respective activities. Additional information is contained in the report of the Secretary-General submitted to the Commission on Human Rights (E/CN.4/1999/76).

F. Technical cooperation, human rights education and information

18. United Nations bodies and all specialized agencies active in the field of technical cooperation closely cooperate and coordinate so as to enhance their respective programmes and to promote all human rights.

18. During 1998–1999, the High Commissioner for Human Rights, in cooperation with agencies and programmes, has carried out a system-wide analysis of technical cooperation in the field of human rights and related areas offered by the United Nations system at the request of countries. The analysis indicates that an increasing number of agencies and programmes offer human rights-related assistance, including in the areas of sustainable development, good governance, the rule of law, human resources, protection of vulnerable groups, sexual and reproductive health, conflict prevention/resolution and confidence-building measures. Agencies and programmes share the conviction that technical cooperation in the field of human rights requires close system-wide cooperation, exchange of information and expertise and more systematic coordination to fully utilize the existing potential. Cooperation and coordination should be strengthened both at the headquarters and country levels. The follow-up to the analysis, which will include measures related to enhanced coordination, quality and normative consistency, as well as methodological soundness, should contribute to a more adequate response to the needs of States. To that end, several steps are planned, including regional workshops. There are already important instances of inter-agency cooperation in providing technical assistance. A particular example is provided by the joint UNDP/OHCHR project "Human Rights Strengthening — HURIST", which covers a broad range of substantive areas. OHCHR also cooperates with other agencies and programmes in providing training to United Nations staff in the field and at headquarters level (see para. 4 above). Assistance (micro-grants) to human rights initiatives undertaken at the grass-roots level is provided in the framework of the ACT (Assisting Communities Together) Project initiated by the High Commissioner on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights in cooperation with UNDP. See also the report of the Secretary-General "Advisory services and technical cooperation in the field of human rights" (E/CN.4/1999/99) and Commission on Human Rights resolution 1999/72.

19. Special emphasis be given to assistance in the strengthening and building of institutions relating to human rights, the strengthening of a pluralistic society and the protection of groups that have been rendered vulnerable.

19. The OHCHR technical cooperation programme, as well as technical cooperation programmes in human rights-related areas offered by other components of the United Nations system are responding to this recommendation. Through its technical cooperation programme, OHCHR assists requesting countries in areas such as constitutional and legislative reform, development of national plans of action for human rights, electoral assistance, support to national human rights institutions established in keeping with the Paris Principles, the administration of justice, military, parliaments, treaty reporting, human rights education, information and documentation, strengthening of NGOs, and the promotion of economic, social and cultural rights and rights of women. For further details see the aforementioned report of the Secretary-General (E/CN.4/1999/99) and reports of relevant agencies and programmes.

20. Human rights officers be assigned to regional United Nations offices to assist in technical assistance activities.	20. The High Commissioner for Human Rights is developing a strategy to strengthen regional/subregional cooperation among international and local actors to better respond to country needs in the context of technical assistance and advisory services. Such a regional strategy should be based on participation of United Nations agencies and programmes and involve the UNDAF. OHCHR has developed two pilot initiatives with regard to the regional strategy. The regional workshops for Asia and the Pacific, the seventh and eighth of which took place in Tehran (September 1998) and New Delhi (February 1999), respectively, have developed a comprehensive regional programme of technical assistance and cooperation. The High Commissioner has also appointed a representative to the Asia and Pacific region, as well as established a subregional office in Pretoria for the countries of the Southern African Development Community.
21. Renewed efforts be made to implement the United Nations Decade for Human Rights Education (1995–2004) and the World Public Information Campaign on Human Rights.	21. Human rights education and public information continue to constitute major areas of cooperation within the United Nations system. In particular, significant additional efforts have been made in these fields on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights. For instance, in September 1998, a letter signed jointly by the High Commissioner for Human Rights and the Director-General of UNESCO was sent to all Heads of Governments, encouraging them to develop national plans of action for human rights education and forwarding to them relevant guidelines prepared by OHCHR in cooperation with UNESCO. The Department of Public Information carried out a human rights information campaign throughout 1998, both at the headquarters and national levels, which included publication of information kits, booklets, posters, video and audio materials; organization of exhibitions; organization of awareness-raising meetings; and Internet-based projects focusing on human rights. The United Nations Information Centres and the United Nations Information Services in different countries developed numerous innovative projects which gave human rights issues a high profile in local media and communities. On 10 December 1998, OHCHR launched its new Web site section comprising more than 250 national and local language versions of the Universal Declaration of Human Rights. This major project has been the result of a global cooperative effort on the part of many components of the United Nations system, including OHCHR, UNESCO, the Department of Public Information (including the United Nations Information Centres and the United Nations Information Services), UNDP and the International Telecommunication Union (ITU). More information on these and other related activities can be found in the reports of the Secretary-General to the Commission on Human Rights on the implementation of the Plan of Action of the United Nations Decade for Human Rights Education (1995–2004) (E/CN.4/1999/87) and on the development of public information activities in the field of human rights, including the World Public Information Campaign on Human Rights (E/CN.4/1999/86).

G. Implementation

22. Components of the United Nations system should provide assistance to Governments in the process of ratifying human rights treaties.

22. The number of ratifications of the six core treaties rose by nearly 30 per cent from 1993 to 1998. More still needs to be done. In the framework of the fiftieth anniversary, the Secretary-General and the High Commissioner carried out a campaign to increase the ratification of human rights treaties, addressing Heads of State and Governments. On 10 December 1998, the High Commissioner for Human Rights appealed for appealed for universal ratification of the basic human rights treaties during the coming five years. OHCHR offers technical assistance to countries to facilitate the ratification process and comply with reporting obligations under the human rights treaties. The OHCHR/UNDP project "HURIST" contains a "window" of activities specifically devoted to the promotion of ratification at the regional, subregional or national levels. OHCHR and UNDP also assist the UNDP resident representatives in promoting the ratification of human rights treaties, by providing training and necessary materials. An ILO campaign in favour of seven fundamental ILO human rights conventions has contributed to nearly 130 ratifications since its beginning in May 1995.

23. The specialized agencies and United Nations bodies, the Office of the High Commissioner for Human Rights and the chairpersons of the human rights treaty bodies intensify their cooperation.

23. The Office of the High Commissioner for Human Rights continues to promote cooperation between the United Nations organs, bodies and specialized agencies, and the chairpersons of the human rights treaty bodies. While the treaty bodies can benefit from information and views in better understanding problems encountered by reporting countries, their expertise can play an important role in guiding agencies and programmes in their efforts to better adjust their activities to the needs of Member States. Although further efforts must be made to fully utilize the potential of such cooperation, progress has been achieved in the exchange of information materials and consultations concerning matters of mutual interest, as is the case with e.g. UNDP, UNICEF, UNAIDS, UNESCO, UNFPA and ILO. The annual meetings of chairpersons of treaty bodies serve also as a forum where ideas and concerns are shared among treaty bodies and other parts of the United Nations system, including the Office of the High Commissioner for Human Rights, the specialized agencies, the Commission on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities. 1999 is the first year this meeting coincided with the annual meeting of special procedures of the Commission on Human Rights, enabling greater formal and informal interaction between the two groups of experts.

24. Relevant components of the United Nations system to assist Member States in adoption and implementation of national plans of action in the field of human rights.	24. The Vienna Declaration and Programme of Action called upon States to consider the desirability of developing national plans of action for the promotion and protection of human rights. To date, 12 countries have developed such plans (Australia, Bolivia, Brazil, Ecuador, Indonesia, Latvia, Malawi, Mexico, the Philippines, South Africa, Venezuela and Yemen). To further this process, OHCHR provides technical assistance and advisory services to individual States in the preparation and implementation of national action plans. The OHCHR/UNDP "HURIST" project also incorporates a special component relating to the provision of such assistance, which focuses on strengthening the interactions and interrelationship between all sectors of society in the formulation and implementation of such plans. OHCHR is assisting a workshop on the development of national action plans for human rights in the Asia-Pacific region (Commission on Human Rights resolution 1999/69).

III. Conclusions

2. Through its agreed conclusions 1998/2, the Economic and Social Council provided an important contribution to the five-year review of the implementation of the Vienna Declaration and Programme of Action and thus to the process of advancing human rights withing the United Nations system. The year which has passed since the adoption of agreed conclusions 1998/2 has brought significant new developments that give evidence that the processes initiated by the recognition of human rights as a cross-cutting challenge within the United Nations continue with the support of all sectors of the Organization.

3. Progress can be noted in the following areas in particular: integration of human rights into policies of the United Nations system, as well as the increasing willingness of its components to cooperate and coordinate their activities; recognition of human rights, including the right to development, as a vehicle of complementarity and consistency of the United Nations system's activities concentrated on the well-being of people and on assistance to Member States; integration of the human rights programme within the managerial structures of the United Nations at the Headquarters level and progress in this regard at the regional and national levels; greater attention paid to the right to development and economic, social and cultural rights; mainstreaming a gender dimension and the human rights of women into the activities of the human rights machinery and, more broadly, of the United Nations system; increased availability of technical cooperation in the area of human rights to States, largely as a result of better coordination of programmes and projects within the United Nations system; intensification of human rights education and information campaigns, *inter alia*, as part of the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights.

4. In spite of progress achieved, further efforts aimed at the optimal use of resources and capacities are necessary. This means still closer cooperation and coordination, thinking in terms of the interdependence and complementarity of our work and expanding coalitions with all our partners, Governments, international organizations, civil society and the corporate sector. Human rights as a basis of promoting fundamental values for individuals and societies should be central to these efforts, as well as a common denominator of our policies and activities. Therefore, the full implementation of the agreed conclusions 1998/2 remains an important and priority task. The Council may wish to encourage the United Nations system to take further steps to that end.

5. The process of coordinated follow-up to major conferences and summits provides a functional framework for the implementation of agreed conclusions adopted by the Council. It is vital that human rights be fully taken into account. The strategy of the High Commissioner for Human Rights to strengthen the capacity of her Office through cooperation with United Nations partners at the regional and national level brings human rights closer to people and thus enhances the human rights orientation of operational activities. This also anchors human rights more firmly in the coordinated follow-up to conferences and summits. The Council may wish to decide that its contribution to the review of the World Summit for Social Development will fully reflect the human rights perspective, taking into consideration its agreed conclusions 1998/2.

United Nations E/1999/84

Economic and Social Council

Distr.: General
17 June 1999

Original: English

Substantive session of 1999
Geneva, 5–30 July 1999
Item 13 (j) of the provisional agenda*
Economic and environmental questions: international cooperation in tax matters

Ninth meeting of the Ad Hoc Group of Experts on International Cooperation in Tax Matters

Report of the Secretary-General

Contents

		Paragraphs	*Page*
I.	Introduction	1–9	2
II.	Exchange of information	10–21	2
III.	Transfer pricing	22–30	4
IV.	Revision and updating of the United Nations Model Double Taxation Convention between Developed and Developing Countries	31–40	5
V.	Technical training	41–44	7
VI.	Recommendations	45–47	7

* E/1999/100 and Add.1.

99-18036 (E) 080799

I. Introduction

1. It its decision 1998/218, the Economic and Social Council decided that the ninth meeting of the Ad Hoc Group of Experts on International Cooperation in Tax Matters would take place in the first half of 1999, as envisaged in the proposed programme budget for the biennium 1998–1999, so that the report of the meeting might be submitted to the Council at its substantive session of 1999. Pursuant to that decision, the ninth meeting of the Ad Hoc Group of Experts on International Cooperation in Tax Matters was held in New York from 3 to 7 May 1999.

2. The Group of Experts observed that in the context of the evolving international economic environment and globalization, it has become necessary to explore ways and means, particularly in the international taxation area, to provide an enabling environment for expansion of international trade and capital movements across national boundaries to promote financial resource mobilization for the achievement of sustainable economic growth.

3. During the past decade, the advent of globalization has given rise to several beneficial global trends, more particularly, the liberalization of international capital movement. However, it has also led many countries to take advantage of opportunities to attract taxable bases from other countries to themselves and indulge in unfair tax competition.

4. Globalization may also lead to significant changes in other areas of tax systems involving, *inter alia*, a greater degree of international cooperation accompanied by the sacrifice of some fiscal sovereignty, and the possibility of the introduction of a global tax. There is also a need for the establishment of an institutional framework at the international level focused on international tax policy and other tax administration issues, which would reduce the impact and efficacy of tax havens, increase the scope for exchange of tax information, develop multilateral conventions and reduce the market distortions caused by transfer pricing issues.

5. International tax developments have also necessitated a re-examination of the taxability of factors of production or income tax. International capital movements have become increasingly sensitive to tax structure changes and non-tax factors, such as speculative attacks on currencies with underlying weaknesses. Most countries have realized that international financial capital cannot be taxed at internationally non-comparable rates.

6. The work of the Group of Experts provides advisory services to the Secretary-General on the processes of double taxation avoidance, combating tax evasion and avoidance, and strengthening the capacities of revenue administrations in developing countries and transitional economies through technical assistance and cooperation. An efficient and effective tax administration may eliminate the need to introduce higher tax rates or new taxes.

7. The ninth meeting of the Group of Experts was attended by 21 tax experts and 18 observers. The Secretariat prepared basic documents and organized two meetings of the focus group,[1] the first in New York in December 1998 and the second at Amsterdam in March 1999, for the finalization of the work on amendment of the text of the articles and modification of commentaries on the United Nations Model Double Taxation Convention between Developed and Developing Countries. The agenda for the ninth meeting was based on the discussions during the eighth meeting of the Group of Experts and on important issues in international taxation in the context of prevailing international economic, fiscal and financial environment.

8. The agenda for the ninth meeting read as follows:

1. Opening of the meeting.
2. Election of officers.
3. Adoption of agenda and organization of work.
4. Exchange of information.
5. Transfer pricing.
6. Revision and updating of the United Nations Model Double Taxation Convention between Developed and Developing Countries.
7. Other matters.
8. Arrangements for the tenth meeting.

9. The discussions on the main items in the agenda for the ninth meeting of the Group of Experts is summarized below.

II. Exchange of information

10. The Group of Experts considered the papers on the subject presented by two participants. It was observed that the exchange of information, which has implications from the bilateral tax treaty point of view, is relevant to the member countries of the United Nations in various dimensions. The Group of Experts was informed that studies on this subject have been carried out in the context of

juridical, economic and anthropological settings, and some are under way in the state of California relating to the technology gap involving ownership structures and the means employed to avoid reporting the allocation of income appropriately. A new framework has been devised to utilize databases to disaggregate ownership in affixing income. Tax information exchange is an integral part of exchange of information. Tax costs are a significant part of business equations when disparities are acknowledged. Technology has an important function in the process of exchange of information, and may provide practical solutions.

11. Another participant, in his presentation, pointed out that the increasing globalization of economic relations has created new situations requiring States to adapt their administrative structures and taxation laws in both substantive and procedural aspects. Specifically, the new economic situation requires a reappraisal of the State's position in the exercise of its powers of taxation, which in turn necessitates abandoning the concept of exercise of sovereignty, with attendant consequences.

12. Moreover, the exchange of information in the context of bilateral tax treaties establishes an access to information on a legal basis. Specifically, the exchange of information is vital for dealing with cases of fiscal fraud. The provisions relating to exchange of information in article 26 of the United Nations Model Convention have been perceived, in the context of the harmful effects of globalization of economic relations, to be inadequate and of restrictive application. One of the negative results of globalization has been the growth of harmful tax competition between States, which is utilized by persons and entities to minimize or avoid tax payments.

13. To counter these forces, States need to strengthen the machinery available for administrative assistance, on the one hand as a principal mechanism to defend their legitimate interests in obtaining an equitable tax contribution to the maintenance of their public activities, and on the other hand to permit the correct application of international instruments, namely, double taxation conventions, by respecting the rights and guarantees of the recipients of income with international character vis-à-vis over-zealous tax collectors. This is demonstrated in certain international economic areas, in which cooperation between administrations has emerged as the most effective action to deal with tax avoidance by individuals.

14. However, the effort to increase collaboration encounters several difficulties which perceptibly limit States' ability to take action to meet the new challenges of globalization. First, many States are reluctant to relinquish part of the information obtained in the exercise of their administrative authority and powers within their territory, while some States decline to seek such information from their taxpayers. Second, there is a lack of mutual interest on the part of both States in gathering and providing information. It is considered that tax-planning schemes designed to reduce the tax burden in a State utilize the legal mechanisms provided for in another State (or other States) either unilaterally or in conjunction with the application of a double-taxation convention, so that it is unlikely that the other State will have an equal interest in providing the information.

15. The representative from the Organisation for Economic Cooperation and Development (OECD) reviewed recent OECD efforts to contain harmful tax competition, and stressed the role of exchange of information in that context. OECD is primarily concerned with issues raised by financial and services sectors since companies in these businesses can easily transfer their profits to low tax jurisdictions without changing the location of their real activities. It was explained that the OECD project will result in a list of tax havens and will identify preferential tax regimes in member countries. As regards tax havens, the dialogue with these countries has led to examining cooperation approaches aimed at eliminating these jurisdictions' reliance on bank secrecy and tax havens' features in respect of their fiscal sovereignty.

16. It was emphasized that the OECD project is not intended to set minimum acceptable tax rates or to bring about harmonization of taxes across countries. The factors employed by OECD to identify countries potentially engaged in harmful tax competition were reviewed, and it was emphasized that all factors must be examined. The process and timetable for action by the OECD countries to remove harmful tax regimes was reviewed. OECD also solicits feedback from non-member countries.

17. There were several suggestions regarding the operation of the modalities of exchange of information, such as development of appropriate conditions, methods and techniques concerning the matters for exchange of information, and the need for a central organization to develop exchange of information procedures. There was also a suggestion for relaxing the rigour of several conditions for the exchange of information specified in paragraph 2 of article 26 of the United Nations Model Convention, which was opposed by another member who viewed these limits as adequate protection offered to multilateral corporations in regard to confidentiality.

18. Several members from developing countries expressed legitimate concerns at their inability to agree to full

exchange of information treaty articles in view of the unequal endowment of resources between developed and developing countries. The bank secrecy rules practised by some countries were criticized on the grounds of the difficulties that they pose to establishing tax evasion.

19. Several members of the Group of Experts emphasized the importance of utilizing new technologies to make the process of exchange of information more effective. The members from developing countries also desired that OECD countries develop effective exchange of information techniques and share those with developing countries. The exchange of information articles in bilateral tax treaties are not intended to be mere anti-abuse provisions but are necessary to implement the application of the country's tax system to cross-border transactions. Most members were of the view that the exchange of information provisions in a bilateral tax treaty are of limited benefit in dealing with the question of tax havens since most such countries do not enter into bilateral tax treaties.

20. The question of assistance in matters of collection of outstanding tax dues was discussed in the context of the exchange of information. Many members from developing countries expressed themselves in favour of such a provision in the United Nations Model Convention since many problems in this field have been experienced. The representative from OECD pointed out that OECD is working to develop a provision in bilateral tax treaties to provide assistance in matters of tax collection.

21. In conclusion, the process of the globalization of world economic relations has made greater demands on the provisions relating to exchange of information, but there are perceptible differences in the ability of developed and developing countries to obtain and provide required information to a treaty partner. The developed countries need to provide information and assistance to developing countries to enable them to carry out exchange of information procedures at an affordable cost. These procedures will also lead to the effective control of harmful tax competition.

III. Transfer pricing

22. The Group of Experts agreed that the subject of transfer pricing for transactions among associated enterprises is important for both taxpayers and tax administrators because they determine, to a large extent, the income and expenses, and consequently the taxable profits of the associated enterprises in different tax jurisdictions. In ordinary parlance, transfer pricing means the amount charged by one segment of an organization for a product or service that it supplies to another segment of the same organization, and in the context of multinational corporations, primarily with a view to minimizing the aggregate tax liability of group companies.

23. Although transfer pricing distortions often arise due to the desire to minimize taxes, other non-tax issues or political factors also cause an artificial shifting of incomes to favoured divisions or a transfer of income from foreign subsidiaries to the parent corporation, primarily to permit more efficient control of funds. Although both United States transfer pricing regulations and the OECD guidelines are based on the "arm's length" principle, developing and transitional economy countries have experienced serious difficulties in its application due to limited markets in many types of goods, services and lack of availability of comparable prices.

24. In their initial discussion, the Group of Experts referred to the need to provide technical training for tax administrators from developing and transitional economy countries in transfer pricing methodologies and techniques, and also referred to the issue of improving tax collections from multinational corporations and the implementation of effective mutual agreement and exchange of information procedures for all countries. In this context, the Group of Experts was informed that the United Nations had successfully organized the First Interregional Training Workshop on International Taxation, with a focus on transfer pricing; the Workshop was convened at Amsterdam in March 1999, in association with the International Bureau of Fiscal Documentation.

25. Recent developments on transfer pricing issues were reviewed by the representative of OECD, including the work of monitoring the use of the OECD guidelines by member countries, studying the application of the guidelines to the permanent establishment situations, publishing the "advance pricing agreements" (APAs) and studying the question of the inclusion of dispute resolution procedures in tax treaties. He explained that the OECD guidelines have been expanded by examples showing how these guidelines should be applied, particularly with respect to the profit-split methods and intangibles.

26. An advance pricing arrangement determines, in advance of controlled transactions, an appropriate set of indicators, namely, method, comparables and appropriate adjustments thereto, critical assumptions as to future events for the determination of the transfer pricing for those transactions over a fixed period of time. These are aimed at

supplementing the normal administrative, judicial and treaty mechanisms for resolving transfer pricing disputes. The Group of Experts discussed extensively the use of and experience with APAs. It was agreed that while unilateral APAs may pose several problems from the point of view of tax administrators who may disagree with their formulation, bilateral and multilateral APAs represent the preferred approach.

27. However, APAs place a strain on transfer pricing audit resources, since tax administrators are constrained to divert resources earmarked for other purposes. There are problems if tax administrations misuse the information obtained in an APA in their normal assessment procedure, or if the confidentiality of trade practices or other sensitive information and documentation is not maintained. Although there was no consensus on the merits of unilateral APAs, it was considered by some members that they have proved valuable in establishing a useful basis in mutual agreement procedure.

28. There was general agreement on the basic methodologies to be applied by countries in determining appropriate transfer prices. The difficulties in applying the arm's length principle may be reduced by providing circumstances in which taxpayers can follow a simple set of rules under which transfer prices would be automatically accepted by the national tax administration, which are referred to as "safe harbours". While some countries tend to use "safe harbours" to provide a measure of simplification, the Group of Experts observed that they may depart from the "arm's length" principle and also lead to double taxation and opportunities for tax arbitrage. It was noted that a parallel multilateral organization had specifically recommended that countries not employ safe harbours.

29. It was generally agreed that the transfer pricing issue is of great importance to both developed and developing countries. The suggestion to establish an institutional framework for the arbitration of transfer pricing disputes, which would be of considerable assistance to developing countries, did not evoke a favourable consensus. It was pointed out that although the European Union has an arbitration convention and a few bilateral tax treaties do include provisions for arbitration, it would be desirable to await the experience of these measures before reaching a conclusion on an arbitration procedure. It was observed that an arbitration procedure is not a substitute for developing expertise in transfer pricing issues or for training or a mutual agreement procedure, and must be treated as a procedure of last resort for resolving transfer pricing disputes. There was general agreement that only multi-country or regional basis agreements should lead to the adoption of an arbitration procedure.

30. The Group of Experts emphasized the role of technical assistance programmes under the aegis of the United Nations for upgrading the technical skills of tax administrators from developing countries and transitional economies in such areas as transfer pricing methodologies and procedures.

IV. Revision and updating of the United Nations Model Double Taxation Convention between Developed and Developing Countries

31. In 1982, the Economic and Social Council had drawn the attention of the Ad Hoc Group of Experts to the need to continue its work by making appropriate proposals in the field of taxation, including its examination of the United Nations Model Convention and the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries, as well as the experience of countries in bilateral application of the United Nations Model Convention.

32. The process of revision and update of the United Nations Model Convention finds further justification in the increasing sophistication of the world economy, which poses significant challenges to different tax systems. The establishment of the World Trade Organization has reinforced additional impetus to reduce the tariff and other tax-related barriers to promote the exchange of goods, services and movements of capital and persons across national boundaries. During the past 10 years, the world has witnessed the emergence of the transitional economies, which are facing several challenges on the economic front. They are seeking more effective ways for improved financial resources mobilization to ensure sustainable economic development. Currently, there is greater emphasis on establishing a permanent international institutional framework to facilitate the conclusion of tax treaties with a view to promoting trade liberalization and expansion, as well as socio-economic growth with social justice. The economic orientation of the bilateral tax treaties has to reckon with the aspirations of the emerging economies for rational international income allocation and resultant tax revenues.

33. The conclusion of bilateral tax treaties for the prevention or elimination of double taxation has emerged as an important constituent of intergovernmental economic relations. Such treaties have been negotiated in the light of

various monetary, fiscal, social and other policies important to the negotiating parties. Bilateral tax treaties can solve many double taxation problems by reconciling differences in the concepts of various types of income and their geographical source, establishing a common method of determining the classification of certain items of income and their tax treatment, and either assuming exclusive tax jurisdiction over certain items of income to one of the treaty countries or dividing the tax revenue between the two countries when neither is willing to relinquish its claim entirely. Bilateral tax treaties promote orderly international tax relationships resulting in the exchange of fiscal information and procedures for mutual assistance, and facilitate the establishment of level playing fields between local businesses and those owned by foreign investors due to the operation of non-discriminatory clauses of such treaties.

34. The United Nations Model Convention represents a compromise between the source principle[2] and the residence principle,[3] although it gives more weight to the source principle than do other model conventions. As a correlative to the principle of taxation at source, the articles in the United Nations Model Convention are predicated on the recognition by the source country that first, the taxation of income from foreign capital would be taxed on a net basis after deduction of expenses; second, taxation would be at reasonable rates to encourage investment; and third, it would appropriately share the revenue with the capital-exporting country. In addition, the United Nations Model Convention promotes the principle of the extension of a measure of relief from double taxation by the residence country through either foreign tax credit or exemption. Like all model conventions, the United Nations Model Convention is intended primarily to point the way towards feasible approaches to the resolution of the issues involved that both potential contracting parties are likely to find acceptable. Its aim is to facilitate the negotiation of tax treaties by eliminating the need for elaborate analysis and protracted discussion of every issue *ab origine* in the case of each treaty.

35. At its eighth meeting, the Group of Experts appointed a focus group of five members and four alternates to do preliminary work on the revision and updating of the United Nations Model Convention, and to report the results of its work to the Group of Experts at its ninth meeting. The focus group held two meetings, in December 1998 in New York and March 1999 at Amsterdam, and examined the comments and suggestions for the amendment of the text of the articles and modification of the commentaries on the United Nations Model Convention. The reports of the focus group on its first and second meetings were before the Group of Experts at its ninth meeting.

36. The Group of Experts, while considering the revision and update of the United Nations Model Convention, took into account the significant changes in the international economic, fiscal and financial environment which have taken place in the last two decades, as well as the modifications introduced in the model conventions of other parallel multilateral and intergovernmental organizations.

37. The amendments made to the text of the articles of the United Nations Model Convention were intended first, to rationalize the provisions of articles dealing with dividends, interest and royalties; second, to remove anomalies and doubt about their application; third, to expand the scope of anti-abuse provisions relating to associated enterprises and capital gains; and fourth, to introduce a measure of administrative simplification in articles dealing with independent personal services and mutual agreement procedures. As a result, the text of the articles will be seen as homogeneous, coherent and reflecting the underlying intent in a comprehensive manner.

38. The process of modification of the commentaries on the United Nations Model Convention aimed to explain the genesis and rationale of the various existing and new provisions, a proper comparison with corresponding identical or differing provisions in other model conventions, and the removal of several extracts and paragraphs which, over the years, have outlived their utility or become irrelevant.

39. One of the major points of discussion at the ninth meeting concerned the treatment to be accorded to the subject of "tax sparing" in the commentary on article 23 of the United Nations Model Convention on methods for the elimination of double taxation. Tax sparing is the practice of adjusting home country taxation of foreign investment income to permit investors to receive the full benefits of host country tax reductions. There was considerable difference of opinion among members of the Group of Experts about the impact of the grant of tax sparing to foreign investors on the flow of foreign direct investment towards developing countries and transitional economies. It was decided by the Group of Experts to note the discussions on the subject without drawing any conclusions in the matter.

40. The Group of Experts examined the text of every article and each and every paragraph of the commentaries on the United Nations Model Convention. Thereafter, **the Group of Experts adopted by acclamation the United Nations Model Double Taxation Convention between Developed and Developing Countries (revised version),**

40. The Group of Experts examined the text of every article and each and every paragraph of the commentaries on the United Nations Model Convention. Thereafter, **the Group of Experts adopted by acclamation the United Nations Model Double Taxation Convention between Developed and Developing Countries (revised version), which will be published by the United Nations Secretariat shortly.**

V. Technical training

41. The Group of Experts was aware that an efficient and effective revenue administration can help developing countries and transitional economies to mobilize additional revenue resources and achieve greater financial self-reliance in facilitating and achieving sustainable economic development. Moreover, the need to introduce higher tax rates or new taxes can be reduced or eliminated by strengthening the revenue administration through upgrading the technical skills of tax administrators by intensive training, especially in the complex and intricate area of international taxation.

42. The Group of Experts referred to the discussions at the eighth meeting in December 1997, which pointed to the need to provide training in international taxation to tax administrators from developing countries and transitional economies. The Group of Experts was informed that the United Nations, in association with the International Bureau of Fiscal Documentation, had organized the First Interregional Training Workshop on International Taxation, with an emphasis on transfer pricing and other related issues, at Amsterdam from 22 to 26 March 1999. The Workshop was attended by tax administrators from 14 countries in Africa, Asia, Europe, Latin America and the transitional economies. The Workshop was a success judging by the comments of the participants. The Group of Experts was informed that the United Nations had plans to organize more such workshops in international taxation, including some on practical methods and strategies for combating tax avoidance and evasion, subject to satisfactory financial arrangements.

43. It is relevant to mention that subsequent to the ninth meeting the United Nations has proposed holding the Second Interregional Training Workshop on International Taxation at Rio de Janeiro, in association with the Government of Brazil. The full details of the organization of the Workshop are still to be finalized.

44. The Group of Experts, in all its deliberations, has emphasized the importance of coordination of the proposed technical assistance and cooperation programmes with other parallel international organizations.

VI. Recommendations

45. The Group of Experts recommended that the United Nations Secretariat publish as soon as possible the United Nations Model Double Taxation Convention between Developed and Developing Countries. The Group of Experts also decided to keep the United Nations Model Double Taxation Convention under a biennial revision process.

46. The Group of Experts has suggested the following items for its review during its forthcoming meetings:

(a) Transfer pricing;

(i) Advance pricing agreements;

(ii) Arbitration as a means of dispute resolution;

(b) Innovative financial instruments;

(c) Tax implications of electronic commerce, including the scope of the permanent establishment concept;

(d) Exchange of information;

(e) Mutual assistance in collection of tax debts;

(f) Pensions;

(g) Alternative dispute resolution procedure;

(h) Tracking changes in the OECD Model Convention;

(i) Examining the revisions of regional model conventions.

47. On the basis of the decision of the Group of Experts (see para. 40 above), the Council may wish to take note of the revised United Nations Model Double Taxation Convention between Developed and Developing Countries, and to approve the holding of the tenth meeting of the Group of Experts in the first half of 2001.

Notes

[1] At its eighth meeting, the Group of Experts established a focus group, consisting of five members and four alternates, to undertake the task of revising and updating the United Nations Model Double Taxation Convention between Developed and Developing Countries, and to report the results of its work to the Group of Experts at its ninth meeting.

[2] Under the "source" principle, a State taxes all income earned from sources within its territorial jurisdiction.

[3] Under the "residence" principle, a State taxes the worldwide income of persons residing within its territorial jurisdiction.